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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,626	12/20/2000	Michael E. Oliver	50-00-007(014208.1372)	9360

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EXAMINER

BOYCE, ANDRE D

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/742,626

**Applicant(s)**

OLIVER, MICHAEL E.

**Examiner**

Andre Boyce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-25 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. This Final office action is in response to Applicant's amendment filed January 3, 2005. Claims 5, 8-11, 14, 16, 19-22, and 25 have been amended. Claims 1-25 are pending.
2. The previously pending objection to claim 5 has been withdrawn.  
  
The previously pending rejections to claims 4, 5, 8-11, 13, 15, 19-22, 24, and 25 under 35 U.S.C. 112, second paragraph have been withdrawn.  
  
The previously pending rejections to claims 14-25 under 35 U.S.C. 101 have been withdrawn.
3. Applicant's arguments filed January 3, 2005 have been fully considered but they are not persuasive.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

5. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "the current reporting date". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. Claims 1-8, 12-19, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver (USPN 5,907,490), in view of Podrazhansky (US 2002/0052770).

As per claims 1-3, Oliver discloses a system monitoring and assessing the performance of a project, the system (project management system 110, figure 3) comprising: computer; software program associated with the computer, software program and computer (computer 120 and software program 52, figures 3-4) operable in combination to: receive project task data and earned value information from a project management software file (information delivered from software 56) or a historical data file (historical data file 60, figure 4). Oliver does not explicitly disclose determining schedule recovery date (SRD) information and display the schedule recovery date (SRD) information, SRD related information, and determining the SRD information by accessing a historical file. Podrazhansky discloses displaying the aggregate cost of the schedule for a defined time period, selectable by the user (§ 0054). Further, Podrazhansky discloses workload drivers being time constrained (i.e., date, time of day, etc.), wherein Podrazhansky derives staffing requirements that optimally satisfy the forecasted workload volume in view of the workload drivers (§§ 0031-32). Both Oliver and Podrazhansky are concerned

with effective scheduling management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include SRD information in Oliver, as seen in Podrazhansky, in order to efficiently determine current scheduling costs, thereby allowing management to make more effective decisions.

As per claim 4, Oliver discloses displaying advisory messages selected from the group consisting of proposed courses of action, explanatory information, and combinations thereof (i.e., initial screen may also serve as a process request for additional information, column 8, lines 39-44).

As per claims 5 and 6, Oliver does not disclose obtaining the SRD information by: calculating the total over time effort hours required; calculating the total over time effort hours available for successive reporting period following current reporting date (CRD); and setting the schedule recovery date equal to the reporting period the total over time effort hours available equal to or greater than the total over time effort hours required; wherein at least the last two steps are repeated for each successive reporting period until a schedule recovery date, which the total over time effort hours available equal to greater than the total over time effort hours required, is determined or until a project baseline finish date is reached. Podrazhansky discloses deriving a staffing requirement that optimally satisfies the forecasted workload volume, wherein the user may construct various scenarios including overtime requirements (§ 0032). Further, Podrazhansky discloses the cost calculation option 64 that enables the user to formulate the cost of overtime by

selecting overtime thresholds (i.e., shift premiums that determine overtime required, ¶ 0053), and displaying the aggregate cost of the schedule for a defined time period, selectable by the user (i.e., the user may alter the time period in order to repeat the process ¶ 0054). Both Oliver and Podrazhansky are concerned with effective scheduling management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include setting the SRD based upon the calculation of the overtime available and overtime required in Oliver, as seen in Podrazhansky, thereby efficiently determining overtime costs and current scheduling costs, allowing management to make more effective decisions.

As per claim 7, Oliver does not disclose total over time effort hours required calculated by setting it equal to the absolute value of the schedule variance. Podrazhansky discloses the cost calculation option 64 that enables the user to formulate the cost of overtime by selecting overtime thresholds, including shift premiums that extend beyond normal working hours (i.e., schedule variance, ¶ 0053). Both Oliver and Podrazhansky are concerned with effective scheduling management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include setting the overtime effort equal to the schedule variance in Oliver, as seen in Podrazhansky, thereby efficiently determining overtime costs and current scheduling costs, allowing management to make more effective decisions.

As per claim 8, Oliver does not explicitly disclose total over time effort hours required is calculated by dividing the absolute value the schedule variance by the

cost performance index (CPI). However, Oliver discloses the CPI equaling EV/actual and the schedule variance equaling EV-baseline (table 2). Further, Podrazhansky discloses formulating the cost of overtime by selecting overtime thresholds, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include calculating the overtime effort in Oliver, as seen in Podrazhansky, thereby efficiently determining overtime costs and current scheduling costs, allowing management to make more effective decisions.

As per claim 12, Oliver discloses the reporting period is selected from the group consisting of day, week (e.g., reporting period of weeks, column 8, lines 13-15), a month, a quarter, a year, and a decade.

As per claim 13, Oliver does not disclose storing a data information selected from group consisting of the schedule recovery date, the total over time effort hours available for each reporting period, the corresponding reporting period being analyzed, and combinations thereof. Podrazhansky discloses the cost calculation option 64 that enables the user to formulate the cost of overtime by selecting overtime thresholds (i.e., shift premiums that determine overtime required, ¶ 0053), and displaying the aggregate cost of the schedule for a defined time period, selectable by the user (i.e., the user may alter the time period in order to repeat the process ¶ 0054). Both Oliver and Podrazhansky are concerned with effective scheduling management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include setting the SRD based upon the calculation of the overtime available and overtime required in Oliver,

as seen in Podrazhansky, thereby efficiently determining overtime costs and current scheduling costs, allowing management to make more effective decisions.

Claims 14-19, 23, and 24 are rejected based upon the rejection of claims 1 and 4-8, 12, and 13, respectively, since they are the method claims corresponding to the system claims.

As per claim 25, Oliver discloses determining and displaying the schedule variance recovered at certain pre-selected reporting periods and the corresponding periods (column 8, lines 36-39).

7. Claims 9-11 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver (USPN 5,907,490), in view of Podrazhansky (US 2002/0052770), in further view of Sanders et al (USPN 6,574,605).

As per claims 9 and 11, Oliver does not disclose the total over time effort hours available is calculated by multiplying a total number of available full time equivalents from the current reporting date the reporting period being analyzed by reasonable over time rate per day for each available full time equivalent and the total number of available full time equivalents is calculated by adding the number of full time equivalents scheduled for each reporting period from the current reporting date the reporting period being analyzed. Sanders et al disclose determining the number of FTE's required to achieve a predefined level of customer service and applying overtime rules to satisfy the requirements, which would include rates (column 6, lines 26-28 and 36-39). Further, Sanders et al disclose forecasting how many FTE's



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are needed for a particular amount of time for a specific project, thereby determining amount of overtime for the period (column 6, lines 53-59). Oliver, Podrazhansky, and Sanders et al are all concerned with effective schedule management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include calculating the overtime effort based upon FTE's in Oliver, as seen in Sanders et al, as an effective means of determining overtime requirements, based upon a predefined level of work scheduled, thereby making the Oliver system more robust.

As per claim 10, Oliver does not disclose the total number available full time equivalents calculated by obtaining the difference between the cumulative budget cost work scheduled (BCWS) for the reporting period being analyzed and the cumulative (BCWS) for the current reporting date, and dividing the difference by the hours per day available from each time equivalent. However, Oliver discloses calculating a BCWS for a reporting period (column 8, lines 12-16). In addition, Sanders et al disclose forecasting how many FTE's are needed for a particular amount of time for a specific project, thereby determining amount of overtime for the period (column 6, lines 53-59). Oliver, Podrazhansky, and Sanders et al are all concerned with effective schedule management, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include calculating the overtime effort based upon the BCWS divided by the hours available from each time equivalent in Oliver, as seen in Sanders et al, as an

effective means of determining overtime requirements, based upon a predefined level of work scheduled, thereby making the Oliver system more robust.

Claims 20-22 are rejected based upon the rejection of claims 9-11, respectively, since they are the method claims corresponding to the system claims.

### ***Response to Arguments***

8. In the Remarks, Applicant argues that Podrazhansky cannot be used to reject claims under 102(e) and 103(a) unless there is proper support for the subject matter. The Examiner believes that proper support exists in the provisional application and respectfully directs Applicant to the Public PAIR website at <http://portal.uspto.gov/external/portal/pair> for viewing and/or printing of the provisional application. In addition, Applicant can also order the provisional application from the Public PAIR website.

Applicant also argues that Oliver and Podrazhansky fail to disclose determining schedule recovery date information. The Examiner respectfully disagrees and submits that Podrazhansky discloses displaying the aggregate cost of the schedule for a defined time period, selectable by the user (§ 0054). Further, Podrazhansky discloses workload drivers being time constrained (i.e., date, time of day, etc.), wherein Podrazhansky derives expected staffing requirements that optimally satisfy the forecasted workload volume in view of the workload drivers (§§ 0031-32), thus disclosing schedule recovery date information.

Lastly, Applicant argues that there is no motivation to combine the references and that the alleged motivation is hindsight reconstruction. The Examiner respectfully disagrees and submits that the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Podrazhansky discloses that it would be desirable to have a scheduling and project management system that is flexible and could be implemented across various industry requirements, wherein the system would be modular allowing a company to add specific modules to accommodate specific needs (§ 0008). Therefore, although the Examiner feels that motivation is found in the knowledge generally available to one of ordinary skill in the art, Podrazhansky provides additional motivation to combine the references.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


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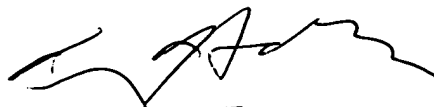
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
adb  
February 28, 2005

  
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